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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 UNITED STATES OF AMERICA,
12 Plaintiff,

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14 v.

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16 MICHAEL ANTHONY PETTENDER,
17 Defendant.
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Case No: 1:20-cr-00139-DAD-BAM

**STIPULATION BETWEEN THE UNITED
STATES AND DEFENDANT REGARDING
PRODUCTION AND REVIEW OF
PROTECTED INFORMATION AND
PROTECTIVE ORDER**

Ctrm: 8

Hon. Barbara A. McAuliffe

20 This case involves a charge related to the sexual exploitation of minors. The discovery in this
21 case contains private personal information regarding third parties (both adults and minors), including but
22 not limited to their names, dates of birth, physical descriptions, telephone numbers and/or residential
23 addresses (protected information). The case also involves contraband that the defense is not legally
24 entitled to possess.

25 The parties desire to avoid both the necessity of large-scale redactions and the unauthorized
26 disclosure or dissemination of this personal information to anyone not a party to the court proceedings in
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1 this matter, so the parties agree that entry of a protective order would be appropriate and facilitate the
2 expeditious exchange of information about the case.

3 As a result, defendant MICHAEL ANTHONY PETTENDER, by and through his counsel of
4 record, Reed Grantham (defense counsel), and the United States of America, by and through Assistant
5 United States Attorney David Gappa, agree as follows:

6 1. This court may enter a protective order under Rule 16(d) of the Federal Rules of Criminal
7 Procedure, and the court's general supervisory authority.

8 2. The protective order will cover all discovery provided to or made available to defense
9 counsel as part of discovery in this case.

10 3. By signing this stipulation and protective order, defense counsel agree(s) not to share any
11 documents that contain protected information with anyone other than defense counsel's associated
12 attorneys, designated defense investigator(s), designated defense expert(s), and/or support staff.
13 Defense counsel may permit the defendant to view unredacted documents in the presence of his
14 attorney(s), defense investigator(s), and/or support staff. The parties agree that defense counsel, defense
15 investigator(s), and support staff shall not allow the defendant to copy or record protected information
16 contained in the discovery. The parties agree that defense counsel, defense investigator(s), and support
17 staff may provide the defendant with copies of documents, if any, from which protected information has
18 first been redacted.

19 4. The discovery and information within it may be used only in connection with the
20 litigation of this case and for no other purpose. The discovery is now and will forever remain the
21 property of the United States of America (the government). Defense counsel will return the discovery to
22 the government at the conclusion of the case.

23 5. Defense counsel will store the discovery in a secure place and will use reasonable care to
24 ensure that it is not disclosed to anyone in violation of this agreement.

25 6. Defense counsel shall be responsible for advising the defendant, employees, and other
26 members of the defense team, and defense witnesses of the contents of this stipulation and order.

1 7. In the event that defendant substitutes counsel, undersigned defense counsel agrees to
2 withhold discovery from new counsel and to return any discovery provided to the government.

3 8. The government will make digital evidence (including contraband) available within the
4 confines of the Federal Bureau of Investigation office in Fresno, California or other appropriate law
5 enforcement facility approved by the government. The digital evidence (contraband) shall not be
6 viewed by any person other than defense counsel, and/or defense investigators and experts, and such
7 viewing shall be conducted only as necessary to prepare for defendant's defense. Neither defense
8 counsel nor any representative of defense counsel will remove any contraband from the custody or
9 control of the law enforcement agency.

10 IT IS SO STIPULATED.

11 Dated: September 29, 2020

12 /s/ Reed Grantham
13 Reed Grantham
14 Attorney for defendant
15 MICHAEL ANTHONY PETTENDER

16 Dated: September 29, 2020

17 McGREGOR W. SCOTT
18 United States Attorney

19 By: /s/ David Gappa
20 David Gappa
21 Assistant U.S. Attorney
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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL ANTHONY PETTENDER,

Defendant.

Case No: 1:20-cr-00139 DAD-BAM

CERTIFICATION

I, _____, certify under penalty of perjury that I have not copied or removed any image(s) of child pornography or data capable of being converted into images of child pornography, or caused the same to be transferred electronically (or by any other means) to any other location, during the course of my review of the evidence in this case.

Date: _____

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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 UNITED STATES OF AMERICA,

12 Plaintiff,

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14 v.
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16 MICHAEL ANTHONY PETTENDER,

17 Defendant.
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Case No: 1:20-cr-00139 DAD-BAM

**PROTECTIVE ORDER RELATED TO
STIPULATION BETWEEN THE UNITED
STATES AND DEFENDANT REGARDING
PRODUCTION AND REVIEW OF
PROTECTED INFORMATION AND
CERTIFICATION**

Ctrm: 8

Hon. Barbara A. McAuliffe

20 **ORDER**

21 1. Defense counsel may permit the defendant to view unredacted documents in the presence
22 of his attorney(s), defense investigator(s), and/or support staff. The parties agree that defense counsel,
23 defense investigator(s), and support staff shall not allow the defendant to copy or record protected
24 information contained in the discovery. The parties agree that defense counsel, defense investigator(s),
25 and support staff may provide the defendant with copies of documents, if any, from which protected
26 information has first been redacted.

27 2. The discovery and information within it may be used only in connection with the
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1 litigation of this case and for no other purpose. The discovery is now and will forever remain the
2 property of the United States of America (the government). Defense counsel will return the discovery to
3 the government at the conclusion of the case.

4 3. Defense counsel will store the discovery in a secure place and will use reasonable care to
5 ensure that it is not disclosed to anyone in violation of this agreement. Defense counsel shall be
6 responsible for advising the defendant, employees, and other members of the defense team, and defense
7 witnesses of the contents of this stipulation and order.

8 4. The Tulare County Sheriff's Office and/or Federal Bureau of Investigation (FBI) shall
9 make a duplicate copy of any hard drive(s) and any attendant storage media available for defense
10 analysis. The defendant shall be responsible for providing the drive(s) onto which evidence is copied.

11 5. The duplicate copy of the digital evidence shall be made available for defense counsel,
12 Reed Grantham, and/or any proposed defense expert, to review at the Fresno FBI Office, or other
13 location at the government's discretion, for the purpose of preparing for the defense of the above-
14 entitled action.

15 6. The expert will be permitted to bring whatever equipment, books, or records he or she
16 believes necessary to conduct the examination;

17 7. Neither the defense expert nor defense attorney shall remove any hard drive(s) or other
18 storage media from the FBI or other law enforcement office.

19 8. With the exception of materials which would be considered child pornography under
20 federal law (including visual depictions and data capable of conversion into a visual depiction), the
21 expert may download and remove files or portions of files, provided the forensic integrity of the hard
22 drive(s) is not altered. The expert will certify in writing that s/he has not taken any material which
23 would be considered child pornography, or data capable of being converted into child pornography
24 (under federal law), and that s/he has not caused any child pornography to be sent from the FBI or other
25 law enforcement office by any means including any electronic transfer of files.

26 9. Except when a defense expert fails to provide this certification, no government agent, or
27 any person connected with the government, will examine or acquire in any fashion any of the items used
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1 by the expert in order to conduct the defense analysis. Should a defense expert fail to certify that the
2 expert has not copied or removed child pornography, or data capable of being converted into child
3 pornography, government agents may then inspect or examine the materials in order to ensure that
4 prohibited child pornography has not been removed.

5 10. When the defense indicates that it is finished with its review of the copy of the hard
6 drive(s), the drive(s) or other storage devices shall be "wiped" clean.

7 11. Any disputes regarding the above or problems implementing this order shall be brought
8 to the attention of the court through representative counsel after first consulting opposing counsel.

9 IT IS SO ORDERED.
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11 Dated: September 30, 2020

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE